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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/557,823

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Pia Daniel

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EXAMINER

BASS, DIRK R

ART UNIT

PAPER NUMBER

1777

MAIL DATE

DELIVERY MODE

03/08/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/557,823	DANIEL, PIA	
	Examiner	Art Unit	
	DIRK BASS	1777	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on August 9, 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 4-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Applicant's request for continued examination filed August 9, 2010 is acknowledged. Claims 1 and 4-20 are pending and further considered on the merits.

Response to Amendment

In response to applicant's amendments, the examiner modifies the grounds of rejection set forth in the office action dated April 8, 2010.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1, 4-15, and 19-20** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. Regarding claims 1 and 19, the examiner is interpreting the language of the claims to invoke 35 U.S.C. 112 sixth paragraph means plus function language. Therefore, the examiner is relying on applicant's specification to adequately describe the "mode means" recited in claims 1 and 19. However, according to applicant's specification, it is unclear whether said mode means comprises a displaying function, an initiating process function, or a changing process function. Furthermore, it is unclear what **structural** elements comprise the mode means. Since applicant has not adequately defined what elements comprise the recited mode means, the examiner is interpreting the mode means to be a functional element on the display unit which displays, initiates, and/or changes processes or functions.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. **Claims 1, and 4-20** are rejected under 35 U.S.C. 102(b) as being anticipated by Ellingboe et al., USPA 2002/0085952 (Ellingboe, IDS).

3. Regarding claims 1, 16, and 19-20, Ellingboe discloses a blood treatment unit (abstract, fig. 1) comprising:

- a. A blood treatment device that is part of an extracorporeal blood circulatory system (REF 118);
- b. Actuators in at least one of the extracorporeal blood circulatory system and another fluid circulatory system (REF 31-36);
- c. A control unit for controlling the actuators (REF 10);
- d. A display and input unit including a touch screen connected to the control unit (REF 50/54);
- e. Wherein the display and input unit include a plurality of mode means (REF 242) that show various time modes of a blood treatment on the touch screen, the mode means being selectable by an operator via the touch screen and arranged with respect to one another in order of their occurrence in time, and including at least one blood treatment preparation means, one blood treatment means, and

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one blood treatment after-preparation means, said mode means being permanently visible in all views (fig. 30A, ¶ 0257); and

f. The control unit being configured to identify the running time mode and to instruct the display and input unit to show the mode means selected from the other mode means using different symbols and establishes the end of one time mode and automatically initiates the beginning of the next and communicates this to the display and input unit, changing the representation of the selected mode means (¶ 0250, 0257-0258).

4. Regarding claims 4-6 and 17, Ellingboe discloses a device wherein the blood treatment means on the touch screen has a larger area than the blood treatment preparation means or blood treatment after-preparation means, said mode means is represented by a cell at one edge of the touch screen, and the remaining area represents further input and/or output means depending on the time mode (¶ 0250, 0257-0258).

5. Regarding claim 7, Ellingboe discloses a device wherein the blood treatment unit is a hemodialysis device (¶ 0023-0024).

6. Regarding claims 8 and 18, Ellingboe discloses a device wherein the blood treatment preparation means includes mode means for a blood system mode and a preparation mode (¶ 0257).

7. Regarding claims 9 and 18, Ellingboe discloses a device wherein the blood after preparation means includes mode means for a reinfusion mode and a purification mode (¶ 0257).

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8. Regarding claim 10, Ellingboe discloses a device wherein the control unit instructs the display and input unit to represent individual mode means in a different type of symbol according to the time mode and to deactivate an input function associated therewith (§ 0258).

9. Regarding claim 11, Ellingboe discloses a device wherein the display and input unit displays the mode means in all of the time modes at a same point of the touch screen (REF 242, fig. 30A, § 0257).

10. Regarding claims 12-14, Ellingboe discloses a device further comprising blood detectors and air detectors, and the control unit evaluates the values of the sensors to determine the end of a time mode and the presence of correctly mounted components (§ 0083, 0367, fig. 33).

11. Regarding claim 15, Ellingboe discloses that the control unit determines the quantity of fluid conveyed by a controlled pump to determine the end of a time mode (§ 0434).

Response to Arguments

12. Applicant's arguments filed August 9, 2010 have been fully considered but are moot in view of the new grounds of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DIRK BASS whose telephone number is (571) 270-7370. The examiner can normally be reached on Mon - Fri (9am-4pm).

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vickie Kim can be reached on (571) 272-0579. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Krishnan S Menon/
Primary Examiner, Art Unit 1777

/DRB/
Dirk R. Bass